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a trade or business and a property or ad valorem tax upon the capital employed therein.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 310.]

2. Statutes (§ 245*)—Construction—Statutes Imposing Taxes.—Statutes imposing taxes should be construed most strongly against the government and in favor of the citizens, and should not be extended by implication.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 771.]

3. Taxation (§ 47 (1)*)—Statutes—Double Taxation.—Where a license tax has been imposed upon a private banker by Tax Bill, § 78, to be measured exclusively "on the capital," such tax constitutes a charge on the capital itself, and an additional assessment under Schedule C, § 8, being on "capital otherwise taxed," is unlawful.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 88.]

Error to Hustings Court of Richmond.

Proceedings by Henry S. Hutzler against the Commonwealth for relief against an ad valorem state tax. Relief was awarded, and the Commonwealth brings error. Affirmed.

The Attorney General and *O. L. Shewmake*, of Richmond, for the Commonwealth.

Geo. Bryan and *Hill Montague*, both of Richmond, for defendant in error.

NORFOLK & W. RY. CO. *v.* MACH et al.

Jan. 16, 1919.

[97 S. E. 776.]

1. Trial (§ 156 (3)*)—Demurrer to Evidence—Admissions.—Demurrer to evidence admits truth thereof and inferences properly deducible therefrom, and waives demurrant's evidence conflicting therewith, or which has been impeached, and all inferences from demurrant's evidence not necessarily resulting therefrom, though not in conflict with evidence demurred to.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 522-3.]

2. Railroads (§ 482 (2)*)—Fire from Locomotive—Evidence—Origin of Fire.—In action against railroad for damages to woodland from fire, defended on ground that fire originated from tramps' camp fire and not from locomotive spark, evidence held, on demurrer to plaintiffs' evidence, to sustain judgment for plaintiffs.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 536; 6 Va.-W. Va. Enc. Dig. 135-7.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Error to Circuit Court, Dinwiddie County.

Action by Voclav Mach, Sr., and others, against the Norfolk & Western Railway Company. Judgment for plaintiffs, and defendants bring error. Affirmed.

J. M. Townsend, of Petersburg, *W. B. McIlwaine*, of Chicago, Ill., and *Theo. W. Reath*, of Philadelphia, Pa., for plaintiff in error.

Lassiter & Drewry, of Petersburg, for defendants in error.

COX *v.* HEUSEMAN.

Jan. 16, 1919.

[97 S. E. 778.]

1. Arbitration and Award (§ 88*)—Parol Evidence.—Where an award involving a boundary dispute was written and signed and its validity was not attacked, parol evidence was inadmissible to show what the award and arbitration proceedings included.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 707.]

2. Boundaries (§ 48 (6)*)—Recognition and Acquiescence.—Acquiescence or verbal acknowledgment, or agreement as to location of a disputed boundary, cannot, *proprio vigore*, pass title from one to another, but such agreements are merely evidence of boundary location, or operate by way of estoppel.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 595, 603.]

3. Boundaries (§ 46 (1)*)—Agreement.—No mere parol agreement to establish a boundary, and thus exclude from the operation of a deed land embraced therein, can divest, change, or affect the legal rights of the parties growing out of the deed itself.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 595.]

Error to Circuit Court, of Goochland County.

Statutory proceeding by W. H. Cox against Henry Heuseman, to establish a boundary between the parties' lands. Verdict and judgment for defendant, and plaintiff brings error. Reversed.

Smith & Smith, of Richmond, for plaintiff in error.

Wm. Justis, Jr., of Richmond, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.